

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

WILLIE CURTIS WALKER, #124111,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:20-CV-833-RAH-KFP
)	
JEFFERSON S. DUNN, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff, a state inmate, filed this 42 U.S.C. § 1983 action challenging the constitutionality of conditions and actions taken against him at the Elmore Correctional Facility. Doc. 1. Although Plaintiff filed an application for leave to proceed in forma pauperis, he did not submit the required documentation from the detention facility's inmate account clerk showing his average monthly balance and average deposits to his inmate account over the last six months. The documents filed by Plaintiff failed to provide the Court with the information necessary to determine whether he should be allowed to proceed without prepayment of filing fees. Accordingly, the Court ordered that by November 9, 2020, "Plaintiff must file a prison account statement from the inmate account clerk showing the average monthly balance and average monthly deposits in his prison account for the six-month period immediately preceding the filing of this Complaint." Doc. 4 at 1. The Order specifically **"cautioned that the Magistrate Judge will recommend dismissal of this case if [Plaintiff] fails to comply with this Order."** *Id.*

Plaintiff has failed to file the financial information ordered by the Court. Absent prepayment of the required fees or an order granting in forma pauperis status to Plaintiff, this case cannot proceed. Under these circumstances, the Court finds that lesser sanctions than dismissal are not appropriate. *See Abreu-Velez v. Bd. of Regents of Univ. Sys. of Ga.*, 248 F. App'x 116, 117–18 (11th Cir. 2007). Thus, this case is due to be dismissed. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (holding that, as a general rule, where a litigant has been forewarned dismissal for failure to obey a court order is not an abuse of discretion.); *see also Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–31 (1962) (acknowledging that the authority of courts to impose sanctions for failure to prosecute or obey an order is longstanding and empowers courts “to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.”); *Mingo v. Sugar Cane Growers Co-Op of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989) (holding that a district court “possesses the inherent power to police its docket” and that “sanctions imposed [upon dilatory litigants] can range from a simple reprimand to an order dismissing the action with or without prejudice”).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff’s failure to file the necessary financial information ordered by the Court. It is further

ORDERED that on or before **January 11, 2021**, the parties may file objections to the Recommendation. The parties must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made. Frivolous, conclusive, or

general objections will not be considered by the Court. The parties are advised that this Recommendation is not a final order and, therefore, is not appealable.

Failure to file written objections to the Magistrate Judge's findings and recommendations in accordance with 28 U.S.C. § 636(b)(1) will bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waive the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except on grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11TH CIR. R. 3-1. *See Stein v. Reynolds Sec., Inc.*, 667 F.2d 33 (11th Cir. 1982); *see also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

DONE this 28th day of December, 2020.

/s/ Kelly Fitzgerald Pate
KELLY FITZGERALD PATE
UNITED STATES MAGISTRATE JUDGE